

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 06-11411-RWZ

OVID MacKINNON

v.

UNITED STATES OF AMERICA

ORDER ON MOTION FOR CERTIFICATE OF APPEALABILITY

January 23, 2007

ZOBEL, D.J.

Ovid MacKinnon claims relief under 28 U.S.C. § 2255 on the ground that he discovered after sentencing new evidence concerning the government's chemist who was suspected of being involved in the disappearance of drugs. I denied the petition because the evidence was not new and because the chemist was, in any event, cleared of any wrongdoing. There was, moreover, no evidence that the chemist had anything to do with the drugs attributable to petitioner.

Petitioner requests a certificate of appealability on the ground that the court failed to hold an evidentiary hearing. He argues that such was necessary to ascertain the bona fides of the government's assertions about the chemist's exoneration. Because on this record these are not matters about which there can be serious disagreement, the request for a certificate of appealability is denied.

January 23, 2007
DATE

/s/Rya W. Zobel
RYA W. ZOBEL
UNITED STATES DISTRICT JUDGE